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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CHRIS MICHAELS, individually; DEIAN  
BORISLAV KOLEV, individually; and  
CHRISTINE LE, individually;

Plaintiff,  
vs.

DMITRY PUSTYLNIKOV, individually;  
KNIGHT TRANSPORTATION, INC., a  
Foreign Corporation; DOES I through XX,  
inclusive; and ROE CORPORATIONS I  
through XX, inclusive,

Defendants.

CASE NO.: 2:21-cv-00484-CDS-BNW

**MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL BRIEFING IN  
SUPPORT OF PLAINTIFFS'  
OPPOSITION TO MOTION TO QUASH  
OR IN THE ALTERNATIVE MOTION  
FOR PROTECTIVE ORDER  
REGARDING PLAINTIFFS'  
SUBPOENAS DUCES TECUM TO  
AT&T, INC. AND SWIFT  
TRANSPORTATION CO., INC.**

**Hearing Date: May 23, 2022**  
**Hearing Time: 1:00 p.m.**

COME NOW, Plaintiffs CHRIS MICHAELS, DEIAN BORISLAV KOLEV, and  
CHRISTINE LE, by and through their attorneys of record, BRADLEY S. MAINOR, ESQ.,  
JOSEPH J. WIRTH, ESQ., ASH MARIE BLACKBURN, ESQ., and JOSEPH W. GUINDY,  
ESQ., of MAINOR WIRTH, LLP, and respectfully move this Court for an Order granting  
Plaintiffs the right to file Supplemental Briefing in Support of Plaintiffs' Opposition to  
Defendants' Motion to Quash or in the Alternative Motion for Protective Order Regarding

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1 Plaintiffs' Subpoenas Duces Tecum to AT&T, Inc. and Swift Transportation Co., Inc. pursuant to  
2 LR 7-2(g).

3 On March 22, 2022, Defendants filed a Motion to Quash or in the Alternative Motion for  
4 Protective Order relating to Plaintiffs' subpoenas duces tecum (ECF No. 30), which were  
5 properly served on March 9, 2022 after having received no timely objection from Defendants.  
6 Plaintiffs filed their Opposition on April 5, 2022. (ECF No. 32). On April 12, 2022, Defendants  
7 filed their Reply. (ECF No. 33). Now, in accordance with LR 7-2(g), Plaintiffs seek to submit  
8 supplemental briefing based on documentation obtained from the subpoena to AT&T, Inc. that  
9 further substantiates why Defendants' Motion should be denied.

10 Local Rule 7-2(g) states, "A party may not file supplemental pleadings, briefs,  
11 authorities, or evidence without leave of court granted for good cause." Here, Plaintiffs exercised  
12 due diligence to obtain all relevant records and information for submission as part of their  
13 Memorandum of Points and Authorities in Opposition to Defendants' Motion.

14 Certain documentation and information, however, was not received until after Plaintiffs'  
15 Opposition had been filed. Specifically, document were obtained from AT&T, Inc. related to  
16 Defendant Pustynnikov's cell phone use on the day of the subject collision. The additional  
17 documentation and information set forth as part of Plaintiffs' proposed Supplemental Brief  
18 (attached hereto at **Exhibit 1**) are significant and directly relevant to the merits of Defendants'  
19 contention that Defendant Pustynnikov attempted to contact his employer, Knight Transportation,  
20 when the subject collision occurred on February 4, 2019.

21 Plaintiffs would not oppose the entry of an Order granting a brief extension of time for  
22 Defendants to file a supplemental memorandum addressing only the matters set forth in  
23 Plaintiffs' Supplemental Brief and an extension of the hearing on Defendants' Motion, currently  
24 scheduled for May 23, 2022 at 1:00 p.m.

25 Accordingly, Plaintiffs respectfully request that the Court enter an Order:

- 26 1. Granting Plaintiffs the right to file the attached Supplemental Brief in Support  
27 of their Opposition to the Defendants' Motion to Quash or in the Alternative  
28

Motion for Protective Order Regarding Plaintiffs' Subpoenas Duces Tecum to  
AT&T, Inc. and Swift Transportation Co., Inc.

2. Granting such other and further relief to which this Court finds the Plaintiffs  
otherwise entitled.

DATED this 17th day of May, 2022.

**MAINOR WIRTH, LLP**

*/s/ Joseph W. Guindy*

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**ORDER**

IT IS ORDERED that ECF No. 37 is GRANTED to the extent the  
Court will allow Plaintiffs to file their supplemental brief.

IT IS ORDERED that ECF No. 35 is DENIED as moot.

IT IS FURTHER ORDERED that if Defendants would like to file a  
response to this supplemental brief, they must do so by 5/19/2022.

IT IS FURTHER ORDERED that the previously scheduled hearing  
will not be continued.

**IT IS SO ORDERED**

**DATED:** 1:10 pm, May 18, 2022



**BRENDA WEKSLER**  
**UNITED STATES MAGISTRATE JUDGE**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 17th day of May, 2022, I caused a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEFING IN SUPPORT OF PLAINTIFFS' OPPOSITION TO MOTION TO QUASH OR IN THE ALTERNATIVE MOTION FOR PROTECTIVE ORDER REGARDING PLAINTIFFS' SUBPOENAS DUCES TECUM TO AT&T, INC. AND SWIFT TRANSPORTATION CO., INC.** to be served via Standard U.S. Mail and electronically, to all parties with an email address on records as follows:

Joel D. Odou, Esq.  
Analise N.M. Tilton, Esq.  
Susana Santana, Esq.  
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*/s/ Lindsay Hayes*

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An Employee of **MAINOR WIRTH, LLP**

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